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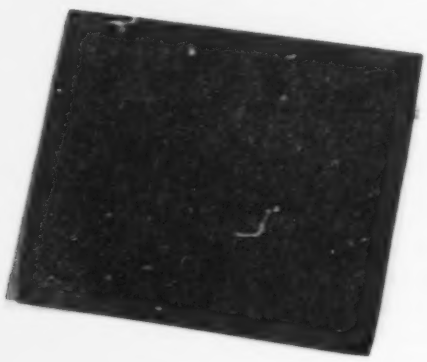
COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 2

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[5 August 1997]



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Situation of human rights in Algeria

1. The impression gained by the International Federation of Human Rights Leagues (FIDH) during its mission to Algeria from 26 April to 1 May 1997 was of "the unmistakable existence of systematic and large-scale human rights violations in a sphere of action completely outside any legal or judicial framework: arbitrary arrests, incommunicado detention in non-official centres - in some cases for long periods - the practice of torture and ill-treatment, enforced disappearances, summary executions and abuses by militias". In its report entitled: "La levée du voile: l'Algérie de l'extrajudiciaire et de la manipulation", it takes the view that the situation remains "extremely worrying".

2. FIDH of course wholeheartedly condemns the massacres and other crimes attributable to Islamic groups and recognizes the right and duty of the Algerian authorities to prosecute and punish those responsible. "However, as an international non-governmental organization whose mandate is to ensure observance of international human rights instruments, it points out that those instruments have been ratified by States and that Governments are duty-bound to implement them. In that respect, there can be no doubt that the Algerian authorities, who themselves loudly proclaim the existence of the rule of law, are obligated to do everything in their power to ensure observance of all international instruments for the protection of the rights of the individual which Algeria has signed."

Arbitrary arrests and incommunicado detention

3. The arrests made by the security forces often resemble the kidnappings carried out by armed terrorist groups. All the eyewitnesses are united in saying that the security forces never produce arrest warrants, often operate in plain clothes and unmarked cars and refuse to disclose their identities.

4. Police custody - which is limited to 12 days under the Code of Criminal Procedure, but in practice lasts for indefinite periods and always exceeds the limit in cases linked with terrorism - takes the form of incommunicado detention in unofficial detention centres during which the relatives generally are unable to obtain any information about the situation of the detainees. These detention centres are usually military barracks, although police and gendarme stations, and even security forces training schools, are apparently also used for prolonged and illegal detention.

Torture and ill-treatment: a widespread and systematic phenomenon

5. From the various persons spoken to during the mission, including the lawyers of detainees, FIDH was able to ascertain that known or suspected members of terrorist groups were systematically tortured and ill-treated while being arbitrarily held in secret places of detention, and also while in custody at police and gendarme stations.

6. The methods of torture, which were also used on minors, include caning, whipping, application of electricity to all parts of the body, including the genitals, suffocation with a cloth soaked in water and chemicals, threats of rape or even sodomy by members of the security forces or with bottles, and burning with cigarettes.

Alarming increase in the number of "enforced disappearances"

7. All the persons arbitrarily arrested and detained in the above-mentioned conditions are reported to their relatives as having "disappeared". According to the National Human Rights Monitoring Centre, an official body set up in 1992, the number of "disappearances" rose to 988 in 1996, more than double the 1994 number. The Monitoring Centre explains that this figure covers disappearances attributable to both Islamic groups and the authorities, persons joining Islamic guerrilla groups and those who have gone missing for various reasons, as elsewhere in the world.

8. The FIDH mission itself met a number of lawyers, each of whom was dealing with dozens and, in some cases, hundreds of "disappearances". It also met more than 20 families of persons who had "disappeared" after being arrested by the security forces and a number of young people who had been released from detention and whose fellow-detainees, arrested during the same "sweep" through their district by the security forces, have not been heard of since last year. The mission therefore concludes that it is probably an understatement to assert that, of the thousands of "disappearances" of all kinds, at least 2,000 are attributable to the security forces.

Summary executions: a substitute for judicial proceedings

9. Members of the security forces sometimes undertake to physically eliminate suspects rather than bring them before the courts, a practice which appeared widespread to the FIDH delegation.

10. FIDH is deeply concerned at the authorities' failure to take legal action regarding the murders of journalists and prominent individuals, purportedly by Islamic groups. During its mission, it ascertained that not one suspected killer of a journalist had thus far been brought to justice, with the exception of the suspected killers of the editor-in-chief of the weekly Ruptures (the first journalist to be killed), who had been found not guilty.

Dangerous institutionalization of "self-defence groups"

11. The village "self-defence groups" were legalized on 4 January 1997 by an act of the Transitional National Council, purportedly to improve the supervision of these volunteer groups by bringing them under the control of the security forces. FIDH wonders about the effectiveness of this measure, as not even the Permanent Secretary of the Ministry of the Interior himself knew just how many members such self-defence groups had, even though the formation of such a group requires the authorization of the wali (prefect).

12. As in the case of massacres committed by the armed Islamic groups, FIDH condemns the massacres committed by these militias and by the communal guards, who are responsible for exterminations systematically attributed to Islamic groups. FIDH believes that the desire of these militias for vengeance and violence, sometimes fuelled by the authorities, can only make any hope of the emergence of a culture of peace in Algeria even more remote.

A non-independent and ineffectual justice system

13. A number of emergency provisions on subversion and terrorism which were repealed in 1992 were reinstated in the Penal Code and Code of Criminal Procedure by the ordinance of 25 February 1995.

14. The mission also observed a wide gap between the content and application of legislation. Custody time limits are systematically exceeded; periods of pre-trial detention are often excessively long. Moreover, the verdicts of the criminal courts - most of which, since the 1995 ordinance, consist of professional judges, who are easier to control than juries - are often reached hastily.

15. On 15 and 16 July last, at Tizi-Ouzou, the trial was held of Mr. Rachid Mesli, a lawyer charged with membership of, and complicity with, a terrorist movement. Immediately upon arriving at their hotel, FIDH's two judicial observers were placed under visible police surveillance and were firmly discouraged by a representative of the Ministry of Foreign Affairs from attending the proceedings. The presiding judge of the court also declared the proceedings in camera. After being acquitted on the two above-mentioned charges, Mr. Mesli was finally, during the deliberation, found guilty of having spoken out in support of terrorism, without the proceedings being resumed, so that the lawyers were unable to exercise their right to organize a defence against this new charge, in flagrant breach of the Code of Criminal Procedure.

16. In general, FIDH observed that the present circumstances make it extremely dangerous to be a professional judge or officer of the courts.

The status of women in Algeria

17. FIDH and its partner organizations call for the lifting of the reservations to the 1979 Convention on the Elimination of All Forms of Discrimination against Women, ratified by Algeria in 1995.

18. The FIDH delegation observed *in situ* the discriminatory nature of the principles stated in the Family Code adopted in 1984. With its partner organizations, it calls on the Government to do everything in its power to ensure observance of the principles of equality and non-discrimination guaranteed by the International Covenant on Civil and Political Rights, ratified by Algeria and published in the *Official Gazette*.

19. It was clear to the FIDH delegation that violence against women was omnipresent and perpetrated mainly in the home by husbands and fathers.

Conclusion

20. At the end of its visit, the FIDH delegation was of the view that the situation of human rights in Algeria was a matter of very grave concern, involving systematic and gross violations of human rights.

21. It also deplored the dissimulatory and mendacious official line, which admitted only the existence of a few "excesses".

22. Today, FIDH calls on the Sub-Commission on Prevention of Discrimination and Protection of Minorities to react to this situation by calling on the Commission on Human Rights to appoint a special rapporteur on Algeria to report to it at its fifty-fifth session.

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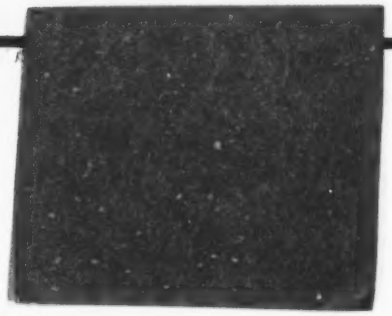

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[5 August 1997]

Situation of human rights in Chad

1. The International Federation of Human Rights Leagues (FIDH) and its affiliate, the Chadian Human Rights League (LTDH), are still deeply concerned at the continuation and deterioration of the situation in Chad, which shows a consistent pattern of gross violations of human rights.

The context

2. In view of this situation, the FIDH and the LTDH have on several occasions requested that consideration of the situation of human rights in Chad should take place under the public procedure provided for in Economic and

Social Council resolution 1235 (XLII). In the conclusion of her last report, the Independent Expert appointed by the United Nations Commission on Human Rights, Mrs. M'Bam Diarra N'Douré, made it clear that the public procedure would be the most appropriate one for consideration of the situation of human rights in Chad. Nevertheless, the Commission on Human Rights decided, at its fifty-third session, to continue to consider the situation of human rights in Chad under the Council's resolution 1503 (XLVIII) procedure, and to appoint an independent expert once again.

The human rights situation

3. The human rights situation in Chad is characterized by three main factors: infringements of political rights, violations of the right to physical integrity and violations of economic and social rights.

4. Infringements of political rights. The conditions in which the 1996 presidential elections took place were such that it was not possible to envisage the rapid establishment of a democratic regime followed by a democratic exercise of power in Chad. It has in fact become clear that the members of President Déby's clan (the Zaghawas) have monopolized all the positions of responsibility in the administration and in the army, and that they enjoy total impunity. This undemocratic exercise of power has had obvious consequences for the political opposition, for the defenders of human rights and for respect for the right to fairness in the administration of justice.

5. A number of concordant reports refer to the existence of political prisoners in Chad. It was reported in November 1996 that five officers, accused of having given false information to the Head of State concerning a possible coup d'état fomented by persons from the Bourkou-Ennedi-Tibesti area, were arrested on the orders of President Déby and were deported to Tibesti without having been tried. After having been held, probably in one of the caves in the region that were also used under the regime of President Habré, they were freed in June 1997. Likewise, a number of persons arrested on 8 August 1995 and imprisoned for having exercised their freedom of opinion, and who were later transferred a number of times, were forcibly enrolled in the ninth infantry regiment of the army. At present, a dozen political prisoners, all army officers, appear to be held in a subterranean prison in Gabore, in the Tibesti area.

6. This undemocratic exercise of power is also reflected in a distrust of Chadian civil society and, in particular, of associations for the defence of human rights. The governmental authorities are placing many difficulties in the way of the members of these associations who seek to carry out their activities in freedom, despite the valuable role they have played, particularly in settling the conflict in northern Chad.

7. The FIDH and its affiliate the LTDH point out that the right to a fair system of justice is still denied in Chad. The courts are unable to ensure respect for the law, because of systematic intervention by the authorities in its administration, in order to ensure either impunity for someone close to the Government or the conviction of one of the Government's opponents.

8. The right to physical integrity. The civil population of Chad still has to face two main threats to its physical integrity: the continued existence of "road blocking", and summary executions.

9. The continued lack of security throughout the country constitutes one of the violations of physical integrity, and especially of freedom of movement, that are affecting the civil population. Economic difficulties within the army are driving a number of soldiers to set up "road blocks". People travelling between towns are held up and robbed both by those manning such checkpoints and by personnel at official checkpoints at the exits from towns.

10. Despite the lifting of the official telegraphic order of 16 November 1996 issued by the Specialized Units Command, stating: "no thief must have the benefit of any legal procedure. If in flagrante delicto, his physical elimination must immediately be carried out", because the authorities claimed that "justice is powerless and corrupt", the associations for the defence of human rights are still recording dozens of cases of summary and arbitrary executions of men, women and children. On 27 March 1997, a 12-year-old child was arrested following a theft. Although released on bond, he was once again arrested and then executed. On 26 March 1997 a thief was executed at the foot of the grandstand on the Place de l'independance at Koumra. A woman was also executed at the Goundi administrative office.

11. Economic and social rights. The per capita annual income in Chad is $122, which makes the country one of the poorest in the world. The health indicators are very low: malnutrition, lack of access to drinking water and the absence of health infrastructures create very serious problems. Furthermore, there is major discrimination in access to education. Even given this alarming situation, the Chadian authorities do not appear to be taking the necessary measures. For example, the agreement concluded between the Chadian authorities and a group of petroleum multinationals does not appear likely to benefit the civil population. On the contrary, this project, which consists in development of the Doba oilfields in southern Chad and in the laying of a 1,100 km pipeline through Cameroon, is liable to revive separatist tension in the region and to divert limited resources which could be allocated for health, education, environmental protection and health and supply infrastructures.

Conclusion

12. In view of this tragic situation, the FIDH and its affiliate the LTDH consider it urgently necessary for the international community to take action and put an end to these flagrant and massive violations of human rights. They call on the Sub-Commission on Prevention of Discrimination and Protection of Minorities to request the Commission on Human Rights to consider the situation of human rights in Chad under the public procedure provided for in Economic and Social Council resolution 1235 (XLII) and to appoint a Special Rapporteur to examine the situation of human rights in Chad and to report to it at its fifty-fifth session.

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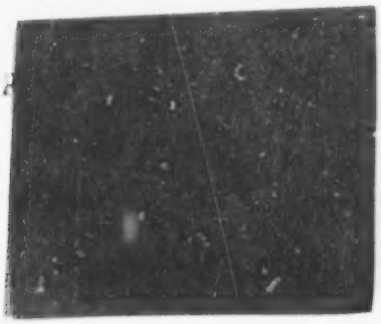
Forty-ninth session
Item 9 of the provisional agenda

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[5 August 1997]



1. The International Federation of Human Rights Leagues (FIDH) and its partner organization in Kenya, the Kenya Human Rights Commission (KHRC), are concerned about the situation of human rights in Kenya.

2. In 1996, the Kenya Human Rights Commission counted a total of at least 2,597 cases of abuse of these diverse rights. This makes an average of at least 216 abuses of human rights a month, or 7 a day. A more specific example is extrajudicial killings by the police in Kenya. In 1994 there were at least 45 such killings, rising to 120 in 1995 and 130 in 1996. Hence, the trend is that the police kill at least 11 Kenyans a month. In Kenya's prisons, a conservative estimate is that there are at least 3 deaths daily. Clearly, the right to life as recognized by articles 3 and 6 of the Universal Declaration of Human Rights (UDHR) and the International Covenant for Civil and Political Rights (ICCPR), to which Kenya is a party, is not operative.

Violations of civil and political rights

3. In 1996, there were at least 140 reported cases of police brutality, 1,997 cases of arbitrary arrests by the police, 45 cases of the infringement of the freedom of speech, 50 cases of the abuse of the freedom of assembly, 60 cases of the violation of academic freedom (such as closures of educational institutions and suspensions or expulsions of students who agitate for the greater respect of the freedoms of expression and association in such institutions), 26 cases of the abrogation of the freedom of movement and 27 cases of government interference with opposition political activity.

4. The abrogation of these rights is facilitated by a host of repressive laws based on a constitution that vests too much power in the presidency. Moreover, these immense powers of the President have enabled those in his favour to enjoy impunity.

5. Under the Constitution, the President controls the executive, Parliament and the courts. He can arbitrarily hire and fire civil servants (section 23 of the Constitution) and appoint all members of the Electoral Commission which is supposed to supervise and organize elections in Kenya. He can adjourn or dissolve Parliament at will (section 59 of the Constitution) and he appoints the Chief Justice and judges of the High Court and Court of Appeal at will. Moreover, members of subordinate courts in Kenya are legally hired, disciplined, promoted and fired by the Judicial Service Commission whose members are all appointed and controlled by the President.

6. The other laws that infringe on the enjoyment of human rights in Kenya include:

(a) **The Preservation of Public Security Act, chapter 57 of the laws of Kenya.** Under this law, the President can arbitrarily detain any individual without trial at any time. This law infringes on the right to personal liberty as recognized by articles 2 of the UDHR and 9 of the ICCPR;

(b) **The Public Order Act, chapter 56 of the laws of Kenya.** Under this law, public meetings have to be licensed by the Government. They can also be disrupted by the police who, as civil servants, owe allegiance to the

President. This has resulted in the frequent and arbitrary non-licensing and disruption of public meetings in Kenya. This law abridges the right to the freedom of peaceful assembly and association as recognized by articles 20 of the UDHR and 22 of the ICCPR;

(c) **The Law of Sedition, sections 56 and 57 of the Penal Code, chapter 63 of the laws of Kenya.** This law outlaws all criticism of the Government of Kenya. It abrogates the right to the freedom of expression and to hold opinions without interference as provided for under article 19 of both the UDHR and ICCPR;

(d) **The Societies Act, chapter 108 of the laws of Kenya.** Under this law, a society or political party can be arbitrarily denied registration or proscribed by the Government. This denies Kenyans their right to association as enshrined in articles 20 of the UDHR and 21 of the ICCPR. 1997 is an election year in Kenya and there are a number of political parties that remain unregistered, meaning that their supporters are being denied their right to take part in the Government of their country as provided for by articles 21 and 25 of the UDHR and ICCPR respectively;

(e) **The NGO Coordination Act.** Non-governmental organizations can be vetted and proscribed by the Government. This infringes on Kenyans' rights to free speech and expression, association and work as recognized by articles 19, 20 and 23 of the UDHR, articles 19 and 22 of the ICCPR and article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR);

(f) **Trade Unions Act.** The Government can arbitrarily refuse to register a trade union. This denies workers in Kenya their right to free association and to freely form trade unions as recognized by articles 20 of the UDHR, 8 of the ICESCR and 22 of the ICCPR;

(g) **The law of prohibited publications, section 52 of the laws of Kenya.** This law allows the Minister of State to arbitrarily ban publications. It abridges Kenyans' right to freedom of expression as recognized by article 19 of both the UDHR and the ICCPR;

(h) **The Kenya Posts and Telecommunications Corporation Act, chapter 411 of the laws of Kenya**. Under this law, no one is allowed to broadcast on the airwaves without the permission of the Government thus infringing on the freedom of expression as recognized by article 19 of both the UDHR and the ICCPR;

(i) **The Kenya Broadcasting Corporation (Nationalising) Act, chapter 221 of the laws of Kenya.** This law exclusively vests the Kenya Broadcasting Corporation, the only nationwide radio and television service, in the Government of Kenya. This infringes on the freedom of expression.

Violations of social and economic rights

7. Although Kenya has been a party to the International Covenant on Economic, Social and Cultural Rights since 3 January 1976, it has never submitted a single report on its fulfilment of its obligations under the Covenant as required.

8. Economic, social and cultural rights in Kenya are widely abused. In 1996, there were at least 97 cases of child abuse, 51 cases of violence against women, 37 cases of abuse of workers' rights and 43 cases of harassment of the poor. 1997 has not been any better. The Government has consistently refused to allow civic education seminars in Kenya as required by article 13 of the Covenant. There have also been cases of harassment of hawkers.

9. Corruption continues unabated in Kenya, with Transparency International, an international anti-corruption watchdog, rating Kenya the third most corrupt nation in the world. The "grabbing" of public land in Kenya is an everyday occurrence, as is the misappropriation of public funds by government officials. The Government's response to this is a public relations exercise. Worse, efforts from civil society to address the problem of corruption in Kenya have been scuttled by the Government. For example, the Government refused in 1991 to register an organization to monitor and highlight cases of corruption. In 1995, it temporarily deregistered CLARION, a local NGO that had just published a book on corruption in Kenya.

10. Education in Kenya is inaccessible to the poor at all levels with parents having to shoulder the burden of buying stationery and textbooks and the construction of school buildings. Moreover, the Government in July 1997 published a bill in parliament which, if enacted, would require students in Kenya's public universities to pay fees or face expulsion. This is contrary to articles 26 and 13 of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, respectively, which require education to be available on the basis of merit.

11. Human Rights Watch, in the book Juvenile Injustice: Police Abuse and Detention of Street Children in Kenya published in June 1997, estimated the population of Kenya's street children to be above 40,000. This situation negates the right of these children to social security as provided for under article 22 of the UDHR and their right to an adequate standard of living as recognized under article 11 of the ICESCR.

Recommendations

12. The Kenyan authorities should undertake immediate constitutional and other legal reforms to establish the necessary foundation for the respect of human rights in Kenya.

13. The Kenyan Government should ensure immediate respect for human rights in Kenya and an immediate stop to impunity, police brutality and killings in Kenya.

14. The Kenyan Government should ratify those international human rights instruments — such as the Optional Protocol and the Second Optional Protocol to the International Covenant on Civil and Political Rights — that it has not yet ratified.

15. The Kenyan Government should respect and obey the provisions of the international human rights instruments it has signed or ratified and ensure that these are incorporated into Kenya's domestic law so that these instruments are honoured.

16. International bodies should keep a strict monitoring regime over Kenya's human rights performance and exert as much pressure as possible whenever abuses occur.

17. The Sub-Commission should condemn the violations of human rights in Kenya.